

R is C₁-C₄alkyl, and

Me is methyl,

by dehydrating the corresponding trifluoroacetoacetic acid ester and methylamine in the presence of an inert reaction medium and of a C₁-C₄carboxylic acid, in which process the reaction is carried out at a temperature of from 75 to 100° C without isolation of intermediates and the water that forms during the reaction is removed continuously from the reaction medium. ✓

REMARKS

Claims 9 – 10 are added hereby. Claims 1 – 10 are pending herein upon entry of this amendment. Entry of this preliminary amendment is respectfully requested.

Newly presented claims 9 and 10 correspond to claims 9 and 10 of copending parent application serial no. 09/042,122. Claim 9 provides for an embodiment described on page 5 of the specification. Claim 10 corresponds substantially to claims 1 – 11 of Chong et al. U.S. patent 5,910,602, issued June 8, 1999 ("Chong '602"). Support for the claim 10 may be found at, for example, pages 4-6 of the instant application as originally filed (which describes yields greater than 80%) and at page 9 (originally filed claim 1).

With respect to Chong et al., U.S. patent 5,777,154, Applicants respectfully submit that the invention of claims 1-10 of the above-identified application was completed prior to November 14, 1996 and in a WTO member country not before January 1, 1996. A Rule 131 Declaration in support of Applicants' averment is of record in copending parent application serial no. 09/042,122. Accordingly, the cited patent is not available as a reference against claims 1-8 and 9 – 10 (newly added).

The Applicants hereby respectfully renew their request for the declaration of an interference between the claims of the present application (corresponding to those of the copending parent case

09/042,122) and the claims of Chong '602. In compliance with the requirements of 37 C.F.R 1.607 the following points are noted:

- 1) The patent with which interference is requested is U.S. Patent No. 5,910,602.
- 2) The Count that Applicants propose for the interference is set forth in the Appendix hereto. The proposed Count corresponds substantially to claim 1 of Chong '602.
- 3) Claims 1 - 11 of Chong '602 correspond to the proposed Count.
- 4) Claims 1 - 10 of the present application correspond to the proposed Count.
 - a) These claims, while not identical to the proposed Count, are deemed to define the same invention as the proposed Count.
 - b) Claims 1 - 10 differ somewhat in scope from the proposed Count in that both the crotonic acid ester compounds (I) prepared and the recited process conditions are somewhat more narrowly defined than in the proposed Count and in the claims of Chong '602. Also, claims 1 - 10 expressly provide for continuous removal of water that forms during the reaction which is believed to constitute a part of the same invention as the proposed Count and the claims of Chong '602.
- 5) The terms of claims 9 - 10 which are newly added to the present application are applied to the disclosure of the present application as noted in paragraph 2 on page 2 above.
- 6) The requirements of 35 U.S.C. § 135(b) are met in view of the fact that claims 1 - 10 were presented and interference was requested within one year of the June 8, 1999 issue date of Chong '602 (See copending parent application 09/042,122). Moreover, claims directed to the subject matter of instant claims 1 - 10 were presented long prior to the issue date of Chong '602.

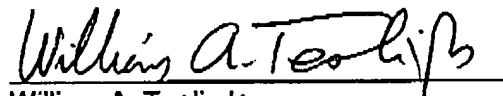
In order to comply with the requirements of 37 C.F.R 1.608, as noted above, Applicants have provided evidence that the invention of claims 1-10 of the above-identified application was

completed prior to November 14, 1996, and in a WTO member country not before January 1, 1996
(See Rule 131 Declaration of record in parent application 09/042,122).

Applicants respectfully request entry of this amendment and a favorable reconsideration of this application. It is further requested that an interference between this application and Chong '602 be instituted as soon as possible.

Respectfully submitted,

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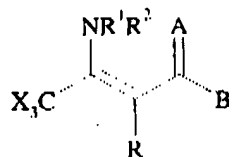


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Appendix

Proposed Count: A method for the preparation of a 3-amino-4,4,4-trihalocrotonate compound of formula I



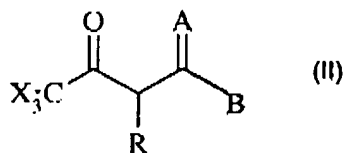
wherein

X is fluoro or chloro;

A is O, S or NR⁵;

B is R⁶, OR⁶, SR⁶ or NR³R⁴;

R, R¹, R², R³, R⁴, R⁵ and R⁶ are each independently H, (C₁-C₈)alkyl, (C₂-C₈)alkenyl, (C₂-C₈)alkynyl, phenyl or phen(C₁-C₈)alkyl; or (C₁-C₈)alkyl, (C₂-C₈)alkenyl, (C₂-C₈)alkynyl, phenyl or phen(C₁-C₈)alkyl substituted with one or more groups independently selected from halo, CN, NO₂, (C₁-C₈)alkyl, (C₂-C₈)alkenyl, (C₂-C₈)alkynyl, phenyl, phen(C₁-C₈)alkyl, (C₁-C₈)alkoxy, (C₂-C₈)alkenyloxy, and phenoxy; or R¹ and R², and R³ and R⁴ may each independently be taken together with the nitrogen to which they are attached to form a five, six, or seven membered heterocyclic ring; or when A is NR⁵ and B is OR⁶ or SR⁶, R⁵ and R⁶ may be taken together with the A=C-B group to which they are attached to form a five, six, or seven membered heterocyclic ring; or when A is NR⁵ and B is NR³R⁴, R³ or R⁴ and R⁵ may be taken together with the A=C-B group to which they are attached form a five, six, or seven membered heterocyclic ring; consisting of forming and heating a mixture comprising solvent, a 4,4,4-trihaloacetoacetate derivative of formula II



wherein

X, R, A and B are the same as defined for formula I, and an amine or ammonium salt of a weak acid of the formula R¹R²NH₂⁺Y⁻

wherein R¹ and R² are the same as defined for formula I and Y⁻ is the anion of a weak acid.